REMARKS

NOTICE OF ABANDONMENT

On November 16, 2007, the Examiner issued a *Notice of Abandonment* contending that the Applicant had failed to "timely file a proper reply to the Office letter mailed 30 October 2006." *Notice of Abandonment*, 1 at 1(d). The Applicant respectfully disagrees.

The Examiner issued a non-final office action on October 30, 2006, as was indicated in the aforementioned *Notice of Abandonment*. On April 30, 2007, the Applicant submitted a *Notice of Appeal to the Board of Patent Appeals and Interferences* with a petition for a three-month extension of time; all requisite fees were believed to have accompanied said *Notice* and petition. The aforementioned *Notice* (in conjunction with the petition for extension of time) was timely in that the shortened statutory period for reply to the October 30 action expired on April 30, 2007. Thus, and as an initial matter, a proper reply was submitted in response to the October 30 action.

With respect to the present appeal (and the *Request for Continued Examination* submitted herewith), 37 C.F.R. § 41.37(a) provides for two months from the date of the notice of appeal to file an appeal brief. See MPEP § 1205.01. The MPEP expressly states that "[o]nce [the] appellant timely files a notice of appeal in compliance with 37 CFR 41.31, the time period for reply set forth in the last Office action is tolled and is no longer relevant for the time period for filing an appeal brief." MPEP § 1205.01.

The MPEP then provides the example of where an appellant/applicant elects to file a request for continued examination instead of an appeal brief: "if the appellant files . . . a request for continued examination . . . instead of an appeal brief, after 2 months from the filing of the notice of appeal . . . [a] petition for an extension of time [with respect to the filing of the notice of appeal] would be required." MPEP § 1205.01. Such is the case,

19

here, where the appellant/applicant has elected to remove the matter from appeal and re-open prosecution. As such, a petition for extension of time is required with respect to the notice of appeal and two month response date for an appeal brief.

The Notice of Appeal, having been filed April 30, 2007, would normally require an appeal brief to be due June 30, 2007. The appellant/applicant has filed, herewith, a petition for extension of time of five months as the period from June 30 to November 30 (the filing date of the present response) is five months. The MPEP expressly provides that the "2-month time period for a patent application may be extended under 37 CFR 1.136(a)." MPEP § 1205.01. 37 C.F.R. § 1.136 provides that an "applicant may extend the time period for reply up to . . . five months after the time period set for reply, if a petition for an extension of time and the fee set in § 1.17(a) are filed." 37 C.F.R. § 1.136(a)(1).

The aforementioned petition and fee are provided herewith. As such, the Applicant hereby requests withdrawal of the *Notice of Abandonment*. To the extent that a petition is required, the Office is requested to treat the present paper as a petition under 37 C.F.R. § 1.181(a)(1) as it pertain to an action of an examiner during the *ex parte* prosecution of an application. The Office has been authorized to charge any additional fees due to Deposit Account 06-0600 as reflected in Form PTO/SB/30 submitted herewith.

20

AMENDMENT OF INDEPENDENT CLAIM 1
AND ALLOWABILITY OF CLAIMS 1-12, 16-19

The Applicant has amended claim 1 such that a plurality of secondary servers maintain a copy of a portion of state information that corresponds to an original session between a client and a primary server. If a session between the client and the primary server (*i.e.*, the server that the client has originally engaged in a session) inadvertently terminates, that the client may connect to any one of the secondary servers in order to continued the session. The client may make this connection to any one of the secondary servers in that the secondary servers (which may otherwise be functionally identical to the primary server) maintain a copy of a portion of the state information from the original session. If a necessary portion of the state information is not present at a particular secondary server to which the client has now engaged in a session, the secondary server may request the necessary portion of the state information from the other secondary servers in that the secondary servers (as a collective whole) maintain an entire copy of the state information.

This functionality is lacking from the Devarakonda et al. reference (U.S. patent number 5,566,297), which states that "[w]hen a failure of [a] server is detected, all ongoing requests to [the] server are suspended." '297:Abstract. Only after a server failure is "state information in each client node [] transferred to an identified back-up server" whereby "the file server state prior to the failure is reconstructed" thereby allowing "the suspended requests [to be] restarted on the back-up server." '297:Abstract. The stop-transfer-reconstruct-restart operation of Devarakonda et al. (see, e.g., 297:1:36-47) differs from the near seamless transfer operation of claim 1.

21

As noted by the specification, a configuration like that recited in claim 1 "provides significant advantages over the conventional network arrangement" "[b]ecause a client device 103 can establish a session with any of the proxy server devices 105 using the state information obtained during a previous session." *Specification,* 8. Further, "embodiments of the invention may keep a copy of only a portion of the cache 205 in each cache memory 203." *Specification,* 8. "If the proxy server device 105A then becomes unavailable and the client device 103A is switched to a connection with the proxy server device 105B, then the proxy server device 105B can establish a session with the client device 103A using the state information retrieved from its own memory cache 105B." *Specification,* 8-9. "[E]ven if the client device 103A is instead switched to a connection with a proxy server device that does not have the state information in its cache memory . . . that proxy server device can request the state information from another, available proxy server device 105 . . . that does have the appropriate state information in its cache memory 203." *Specification,* 9.

Independent claim 1 is thus allowable over Devarakonda et al. Claims 2-12 and 16-19 are allowable for at least the same reason as independent claim 1 by virtue of their direct or intermediate dependency from claim 1. Claims 13-15 have been cancelled.

WITHDRAWAL OF CLAIMS 20-87

For the purpose of focusing continued prosecution, the Applicant has withdrawn claims 20-87. Withdrawal of these claims should by no means be construed as concurring with any rejection proffered by the Examiner. The Applicant reserves the right to reintroduce these claims at any time (so far as permitted by title 37 of the Code of Federal Regulations and title 35 of the United States Code) later in prosecution.

22

CONCLUSION

The Applicant has evidenced that the issuance of a *Notice of Abandonment* was in error.

The Applicant has evidenced the allowability of claim 1 over the Devarakonda et al. reference. Claims 2-12 and 16-19 are allowable for at least the same reasons of claim 1.

The Applicant has withdrawn claims 20-87 but reserves the right to reintroduce these claims later in prosecution including in a supplemental response.

The Examiner is invited to contact the Applicant's undersigned representative with any questions concerning the present matter.

Respectfully submitted,
Rodger Erickson

November 30, 2007   By:

Kenneth M. Kaslow, Reg. No. 32,246
CARR & FERRELL LLP
2200 Geng Road
Palo Alto, CA 94303
TEL: (650) 812-3400
FAX: (650) 812-3444

23